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DEPARTMENT OF HOMELAND SECURITY

48 CFR Parts 3009 and 3052

[Docket No. DHS-2010-0017]

RIN 1601-AA55

Prohibition on Federal Protective Service Guard Services Contracts with Business Concerns Owned, Controlled, or Operated By an Individual Convicted of a Felony [HSAR Case 2009-001]; Correction

AGENCY: Office of the Chief Procurement Officer, DHS.

ACTION: Correcting amendment.

SUMMARY: This document corrects internal citations within the Homeland Security Acquisition Regulation to reflect previous redesignation of sections related to contracting with corporate expatriates and the recodification of certain public contracting laws in title 41, United States Code.

DATES: Effective date: [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Ann Van Houten, Procurement Analyst, at (202) 447-5285, for clarification of content.

SUPPLEMENTARY INFORMATION:

This document corrects internal citations within the Department of Homeland Security (DHS) Homeland Security Acquisition Regulation (HSAR) at parts 3009 and 3052 to reflect a prior redesignation of related sections and the recodification of certain public contracting laws in title 41, United States Code, by Public Law No. 111-350, 124 Stat. 367 (Jan. 4, 2011).

On November 16, 2009, DHS published a final rule entitled Prohibition on Federal Protective Service Guard Services Contracts with Business Concerns Owned, Controlled, or Operated By an Individual Convicted of a Felony [HSAR Case 2009-001], 74 FR 58851 (Nov. 16, 2009), implementing prohibitions related to contracting with guard services owned, controlled or operated by an individual who has been convicted of a serious felony. This final rule resulted in the redesignation of multiple sections within the HSAR. On December 16, 2009, DHS corrected the final rule by redesignating section 3009.104-70 as section 3009.108-70, and subsections 3009.104-71 through 3009.104-75 as subsections 3009.108-7001 through 3009.108-7005. 74 FR 66584 (Dec. 16, 2009). This amendment corrects internal references within subsections 3009.108-7001, 3009.108-7004 and 3052.209-70 to reflect the previous redesignations.

The amendment also corrects the authority citation for Parts 3009 and 3052 resulting from the recodification of certain public contracting laws in title 41 by Public Law No. 111-350, 124 Stat. 367 (Jan. 4, 2011).

List of Subjects in 48 CFR Parts 3009 and 3052

Government procurement.

Correcting Amendments

Accordingly, 48 CFR Parts 3009 and 3052 are corrected by making the following amendments:

PART 3009--CONTRACTOR QUALIFICATIONS

1. The authority citation for part 3009 is revised to read as follows:

Authority: 5 U.S.C. 301-302, 41 U.S.C. 1707(a) and (b), 41 U.S.C. 1702, 48 CFR part 1, subpart 1.3, and DHS Delegation Number 0700.

2. Section 3009.108-7001 is revised to read as follows:

§ 3009.108-7001 General.

Except as provided in (HSAR) 48 CFR 3009.108-7004, DHS may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b) of section 835 of the Homeland Security Act, 6 U.S.C. 395(b), or any subsidiary of such an entity.

3. Section 3009.108-7004(a) is revised to read as follows:

§ 3009.108-7004 Waivers.

(a) The Secretary shall waive the provisions of (HSAR) 48 CFR 3009.108-7001 with respect to any specific contract if the Secretary determines that the waiver is required in the interest of national security.

..*.*.*

PART 3052--SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. The authority citation for part 3052 is revised to read as follows:

Authority: 5 U.S.C. 301-302, 41 U.S.C. 1707(a) and (b), 41 U.S.C. 1702, 48 CFR part 1, subpart 1.3, and DHS Delegation Number 0700.

5. Section 3052.209-70 is amended by revising the introductory text and paragraph (f) of the clause to read as follows:

§ 3052.209-70 Prohibition on contracts with corporate expatriates.

As prescribed at (HSAR) 48 CFR 3009.108-7005, insert the following clause:

* * * * *

(f) *Disclosure.* The offeror under this solicitation represents that [Check one]:

___ it is not a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.108-7000 through 3009.108-7003;

___ it is a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.108-7000 through 3009.108-7003, but it has submitted a request for waiver pursuant to 3009.108-7004, which has not been denied; or

___ it is a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.108-7000 through 3009.108-7003, but it plans to submit a request for waiver pursuant to 3009.108-7004.

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